

### **REMARKS**

The pending Office Action addresses claims 1-6, all of which stand rejected. Applicants respectfully request reconsideration and allowance based on the amendments and remarks submitted herewith.

#### **Amendments to the Claims**

Applicants amend independent claim 1 to clarify that the working electrode and the counter electrode or counter/reference electrode face each other. Support for this recitation can be found throughout the specification, claims, and the drawings (FIGS. 1, 4, 5, and 7, for example). Applicants also amend claim 1 to recite an electrochemical cell that includes a means for measuring from cell current the diffusion coefficient of a redox mediator in the cell and independently its concentration. Support for this recitation can be found throughout the specification, at least at page 12, first full paragraph and page 19, first paragraph.

Applicants amend dependent claims 2-6 to correspond to independent claim 1.

No new matter is added.

In an telephone conference on November 5, 2006 between the Examiner and Applicants' representative, George Xixis, regarding this and the related cases, the Examiner indicated that amending the claims to recite a means for measuring from cell current the diffusion coefficient of a redox mediator in the cell and independently its concentration would be sufficient to overcome the prior art. This amendment was approved by Applicants' representative in a telephone conference with the Examiner on November 16, 2006 regarding USSN 10/624,823, a related case, and entered as an Examiner's amendment. In the Examiner's amendment, the Examiner stated that "Diebold as modified by Straus, Kanezawa, Enthone, Caeter, and Bohs does not have means for measuring from cell current the diffusion coefficient of a redox mediator in the cell and independently its concentration."

### **Double Patenting Rejections**

The Examiner maintains his double patenting rejections based on copending Application Serial No. 10/624,823 and Application Serial No. 10/624,795. Applicants hereby file Terminal Disclaimers with respect to Applications Serial Nos. 10/624,823 and 10/624,795, thereby obviating this rejection.

### **Rejections Pursuant to 35 U.S.C. § 103(a)**

#### **Claims 1-4 and 6**

The Examiner maintains his rejection of claims 1-4 and 6 pursuant to 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 5,437,999 of Diebold in view of U.S. Patent No. 5,089,320 of Straus, U.S. Patent No. 5,095,407 of Kanezawa, and a June 2001 Imaging Technologies Update from Enthone. As noted above, Applicants amend claim 1, and claim 1 distinguishes over Diebold in view of Straus, Kanezawa, and Enthone because the combination does not teach or even suggest an apparatus having a means for measuring from cell current the diffusion coefficient of a redox mediator in the cell and independently its concentration. Accordingly, claim 1, as well as claims 2-4 and 6 which depend therefrom, represent allowable subject matter.

#### **Claim 5**

The Examiner also maintains his rejection of claim 5 pursuant to 35 U.S.C. § 103(a) as being obvious over Diebold in view of Straus, Kanezawa, Enthone, and further in view of U.S. Patent No. 5,126,034 to Carter and U.S. Patent No. 5,399,256 to Bohs. Applicants disagree with the Examiner's rejection. As noted above, Diebold in view of Straus, Kanezawa, and Enthone do not teach or even suggest an electrochemical cell that has a means for measuring from cell current the diffusion coefficient of a redox mediator in the cell and independently its concentration. Carter and Bohs do not remedy the deficiencies of Diebold, Straus, Kanezawa, and Enthone as they do not teach or suggest an electrochemical cell that has a means for measuring from cell current the diffusion coefficient of a redox mediator in the cell and

independently its concentration. Accordingly, at least because it is dependent upon an allowable base claim (claim 1), claim 5 represents allowable subject matter.

**Conclusion**

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue. The Examiner is kindly requested to telephone the undersigned representative in the event that the amendments do not place this case in condition for allowance or if a telephone interview can otherwise expedite the prosecution of this application.

Dated: January 22, 2007

Respectfully submitted,

By 

George A. Xixis

Registration No.: 38,664

NUTTER McCLENNEN & FISH LLP

World Trade Center West

155 Seaport Boulevard

Boston, Massachusetts 02210-2604

(617) 439-2194

(617) 310-9194

Attorneys for Applicants

1597796.1